

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: KELLY, Daniel P.

DATE: January 23, 2003

SERIAL NO.: 09/771,782

GROUP ART UNIT: 1732

FILED: 29 January 2001

EXAMINER: Edmund H. Lee

FOR: "Sports Projectile Shaped Bead Necklace and Method of Manufacture"

Attorney Docket No.: A00219US (98361.3)

RESPONSE

Commissioner of Patents
and Trademarks
Washington, D.C. 20231
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Sir:

This is a response to the Office Action dated 13 January 2003. A shortened statutory period was set to expire three months from the date of the Office Action, making a response due by 13 April 2003.

REMARKS

Applicant respectfully submits that the Office Action was improperly made final, as a new rejection was made that was not required by any amendment to the claims. Thus, applicant respectfully requests that the finality of the Office Action be withdrawn.

Claims 37-43 and 47-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Batehols and in view of Sports Beads (promotional information on the Internet). Applicant respectfully traverses this rejection.

Attached is a declaration of the inventor stating that the claimed invention has been licensed to Innovative Marketing, which sells the invention to SSP, which maintains the web site at which the cited promotional information can be found. Thus, the promotional information on the Internet of SSP is of the claimed invention. It is not prior art and is not available to be used against the present claims. Further, there is no evidence in the record that this information existed prior to the invention by the present invention, or more than one year before the effective filing date of the claims (just because the cited web pages have a copyright date of 1999 does not mean that the advertised beads existed in

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